

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

* * * * *

MICHAEL KINGLSEY,
Plaintiff,

-vs-

Case No. 10-CV-832-BBC

STAN HENDRICKSON
and FRITZ DEGNER
Defendants.

Madison, Wisconsin
October 16, 2012
1:46 p.m.

* * * * *

STENOGRAPHIC TRANSCRIPT OF THIRD DAY OF JURY TRIAL
AFTERNOON SESSION
HELD BEFORE DISTRICT JUDGE BARBARA B. CRABB, and a jury

APPEARANCES:

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THE COURT: Any reason not to bring the jury in
at this time? Thank you.

(Jury brought in courtroom at 1:46 p.m.)

THE CLERK: This Honorable Court is again in
session. Please be seated and come to order.

MR. POSNANSKI: I have no further questions for
Mr. Blanton.

THE COURT: Ms. Ward.

1 CROSS-EXAMINATION

2 BY MS. WARD:

3 Q Good afternoon, Mr. Blanton.

4 A Good afternoon.

5 Q I'm going to have to get used to calling you
6 Mr. Blanton instead of Deputy Blanton, but forgive me if
7 I say Deputy.

8 || A Yes, sir.

9 | Q Prior to the incident on May 21st, 2010 --

10 THE COURT: Why don't you pull the microphone
11 over just a little closer.

12 MS. WARD: Sure.

13 Q -- your experience with Mr. Kingsley had been that
14 he was cooperative; right?

15 A Prior to the incident, yes.

16 Q And you hadn't had any real issues with him;
17 correct?

18 || A No.

19 Q And you certainly hadn't had any experience where
20 Mr. Kingsley had been violent; correct?

21 | A Correct.

22 Q Now you testified on direct that when you tried to
23 talk to Mr. Kingsley in the early morning about removing
24 the paper over the light, he didn't respond to you;
25 correct?

KARL BLANTON - CROSS

1 A That's correct.

2 Q He certainly didn't threaten you; correct?

3 A Correct.

4 Q Now when the group of you went into Mr. Kingsley's
5 cell, he complied with the order to put his hands behind
6 his back; correct?

7 A I believe so, yes.

8 Q And when you and Sergeant Hendrickson tried to help
9 him stand, he dropped to his knees; right?

10 A Yes.

11 Q And I think you said on direct you offered him a
12 wheelchair?

13 A That would have been an option, yes.

14 Q You didn't put that in your incident report,
15 correct --

16 A No, I didn't.

17 Q -- that you offered him a wheelchair?

18 A No, I did not.

19 Q And you didn't know one way or the other whether he
20 was hurt; right?

21 A That is correct.

22 Q Now when Mr. Kingsley was being carried into the
23 receiving cell, you did not believe that Mr. Kingsley
24 was struggling or resisting at that point; correct?

25 A Not while going into the cell, no.

KARL BLANTON - CROSS

1 Q Okay. Now I want to talk about the level of threat
2 presented by Mr. Kingsley when he was in the receiving
3 cell.

4 A Okay.

5 Q There were five officers present when he was placed
6 in the receiving cell; correct?

7 A Yes.

8 Q Four inside and one outside?

9 A Yes.

10 Q And so you would agree with me, would you not, that
11 throughout the incident with Mr. Kingsley, the officers
12 had an advantage due to outnumbering Mr. Kingsley;
13 correct?

14 A Would I consider that an advantage? Or -- I
15 wouldn't consider that an advantage. He's outnumbered,
16 yes.

17 Q And you don't consider that an advantage?

18 A Not depending on the person. Every person is
19 different, whether it's an advantage or not.

20 Q Okay. Do you remember when I took your deposition
21 in this case?

22 A Sure.

23 Q Okay. And you were under oath at that time; right?

24 A Yes.

25 Q The deposition is up there in the binder that's
KARL BLANTON - CROSS

1 marked depositions. If you could turn in that binder to
2 your deposition to page 108. Let me know when you get
3 there.

4 A Is this under my name?

5 Q Yes, it's under your name. They're alphabetical.

6 A Yep. What page number?

7 Q 108. Are you there?

8 A No, I'm not.

9 THE COURT: Oh, are those -- that's the
10 compressed version?

11 THE WITNESS: Yes, I would believe so.

12 THE COURT: Don't look at the bottom of the
13 page, but look at the bottom of each little section and
14 you'll see a page number.

15 THE WITNESS: Yeah, it only shows page 30 is
16 the last page number.

17 BY MS. WARD:

18 Q I'm sorry, sir. There's two portions to your
19 deposition. One was confidential and one was not. So
20 we need to look at the nonconfidential portion of your
21 deposition.

22 A Page 108?

23 Q So you're with me?

24 A Yes.

25 Q And then at line 22 of page 108, as part of the
KARL BLANTON - CROSS

1 question I was asking you: "But it states in the
2 second paragraph," we were looking at a document
3 together, "the most obvious difference is the number of
4 participants on each side of the equation. One officer
5 facing three subjects is in a much different position
6 than the same officer and two partners facing a lone
7 subject." And then it says, "In general, having greater
8 numbers gives you an advantage."

9 And I ask: "So you would agree with me that the
10 officers had the advantage in the situation with
11 Mr. Kingsley; correct?"

12 "Answer: Yes."

13 Did I ask you that question and did you give me
14 that answer?

15 A Yes.

16 Q And you're six three; correct?

17 A Six four. Yes, Ma'am.

18 Q And 230 pounds or so?

19 A Yes, Ma'am.

20 Q And you would also agree with me that because
21 Mr. Kingsley was prone and in handcuffs, the threat
22 level was less than if he had been unrestrained and
23 standing; correct?

24 A Yes.

25 Q And it's true, is it not, that Mr. Kingsley was
KARL BLANTON - CROSS

1 under some level of control because he was handcuffed?

2 A Yes.

3 Q Now Mr. Kingsley did not make any verbal threats to
4 officers or anyone else at the time during the incident;
5 correct?

6 A That's correct.

7 Q And you didn't feel unsafe at any point in the
8 incident with Mr. Kingsley; correct?

9 A That is correct.

10 Q Now in the receiving cell you were the officer that
11 was trying to take Mr. Kingsley's handcuffs off;
12 correct?

13 A Correct.

14 Q And the reason you were taking his handcuffs off is
15 that it is common practice so he doesn't hurt himself;
16 correct?

17 A Correct.

18 Q And you had concluded that at that point it would
19 be appropriate to try to take his handcuffs off;
20 correct?

21 A Correct.

22 Q And Mr. Kingsley was not verbally warned in any way
23 that noncompliance would result in him being tased, was
24 he? Verbally warned.

25 A Can you restate that, please?

KARL BLANTON - CROSS

1 Q Yes. Do you want me to restate it or do you want
2 me to say it again?

3 A Say it again, please.

4 Q Mr. Kingsley was not verbally warned in any way
5 that noncompliance would result in him being tased;
6 correct?

7 A Correct.

8 Q And you don't have or you didn't have an opinion
9 either way whether the use of the taser on Mr. Kingsley
10 on May 21st of 2010 was necessary; correct?

11 A Correct.

12 Q And there were alternatives to the taser such as
13 other empty-hand controls that could have been used;
14 correct?

15 A Correct.

16 Q Now just before you left the cell, you safety
17 locked the cuffs so they wouldn't tighten up anymore;
18 correct?

19 A Correct.

20 Q And I think you testified on direct that
21 Mr. Kingsley had been making sounds throughout the
22 incident; right?

23 A Correct.

24 Q And I think you said he sounded angry or that he
25 was making sounds in anger; correct?

KARL BLANTON - CROSS

1 A Correct.

2 Q You didn't use the word anger or angry in your
3 incident report; correct?

4 A Correct.

5 Q I just have a couple more questions, Mr. Blanton.

6 A Sure.

7 Q As of the time of your deposition in this case, you
8 had not had an occasion to use a taser on a subject in
9 the course of your duties as an officer; correct?

10 A Correct.

11 Q And before the incident with Mr. Kingsley, you had
12 never witnessed an officer applying a taser to a
13 handcuffed inmate or subject; correct?

14 A Correct.

15 MS. WARD: Nothing further.

16 THE COURT: Mr. Posnanski.

17 MR. POSNANSKI: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. POSNANSKI:

20 Q Mr. Blanton, you were just asked some questions
21 about whether or not you felt unsafe during this
22 incident with Mr. Kingsley. Do you recall that
23 testimony?

24 A Yes.

25 Q Even though you didn't feel that you were unsafe,
KARL BLANTON - REDIRECT

1 did you still believe there was a risk posed to both the
2 officers and to Mr. Kingsley?

3 MS. WARD: Objection. Leading.

4 THE COURT: Sustained.

5 BY MR. POSNANSKI:

6 Q Mr. Blanton, in the receiving cell can you describe
7 what Mr. Kingsley was doing again?

8 A In the receiving cell, as we were trying to get the
9 handcuffs off, once again Mr. Kingsley was pulling;
10 tensing up; lifting up his upper torso; trying to pull
11 his hands apart; wiggling his hands; kind of just
12 swaying on his belly left to right a little bit;
13 grunting, which I took as anger and frustration which
14 made it very difficult at that time to get the handcuffs
15 off.

16 Q Did Mr. Kingsley's conduct -- strike that.

17 Were you concerned at all by Mr. Kingsley's
18 conduct?

19 A I was concerned, yes.

20 Q Why?

21 A Just because most reasonable people would want the
22 cuffs off, and he, I felt, was resisting to let us all
23 achieve that objective to get the handcuffs off. So he
24 was struggling and making it unsafe.

25 Q Why was that a concern?

KARL BLANTON - REDIRECT

1 A That's a concern for his safety and the officers'
2 safety that were in the cell at that time.

3 Q So even though you did not feel unsafe, you still
4 had concerns about the safety of Mr. Kingsley and the
5 officers?

6 A That's correct.

7 Q Now you were asked questions regarding whether or
8 not Mr. Kingsley was verbally warned whether or not he
9 would be tased. Do you recall that?

10 A I do.

11 Q Was Mr. Kingsley given any verbal instructions?

12 A He was multiple times asked to stop resisting; stop
13 fighting us; let's get this resolved; let's get the
14 cuffs off; multiple times trying to reason with
15 Mr. Kingsley.

16 Q You were asked whether or not you had an opinion
17 one way or another with respect to the decision to use
18 the taser. Do you recall that?

19 A Yes, I do.

20 Q That was not your decision to use the taser; right?

21 A That is correct.

22 Q In the questioning by counsel, you were asked
23 whether or not you safety locked Mr. Kingsley's
24 handcuffs. Do you recall that?

25 A That's correct.

KARL BLANTON - REDIRECT

1 Q Do you know whether the handcuffs had already been
2 safety locked when you did that?

3 A I'm not 100% sure on that now.

4 Q So they may have?

5 A They may have, yes.

6 MR. POSNANSKI: Thank you, Mr. Blanton.

7 THE WITNESS: Yes.

8 MS. WARD: May I have one moment, Your Honor,
9 just to consult?

10 THE COURT: You may.

11 (Pause)

12 MS. WARD: We have nothing further.

13 THE COURT: You may step down.

14 MR. POSNANSKI: Your Honor, this witness was
15 under a subpoena.

16 THE COURT: That's what I was just going to
17 ask. Any reason that he should not be discharged?

18 MS. WARD: No, he may be discharged.

19 THE COURT: You are discharged; free to leave
20 the building and go about your business.

21 THE WITNESS: Thank you.

22 MS. WARD: Thank you, Mr. Blanton.

23 (Witness excused at 2:00 p.m.)

24 MR. JONES: We'd like to called Sergeant
25 Hendrickson, Your Honor.

KARL BLANTON - REDIRECT

1 **STANLEY HENDRICKSON, DEFENDANT, SWORN,**

2 DIRECT EXAMINATION

3 BY MR. JONES:

4 Q Would you please state your full name for the
5 record.

6 A Stanley Vernon Hendrickson, Junior.

7 Q And you're employed by Monroe County?

8 A That's correct.

9 Q By the Sheriff's Department?

10 A Correct.

11 Q What's your current rank?

12 A Lieutenant.

13 Q Do you mind if I call you Sergeant since that was
14 your rank at the time of the incident?

15 A That's fine.

16 Q And how long have you worked for the Sheriff's
17 Department?

18 A Since August of 2000.

19 Q And you said you were a Lieutenant. What's your
20 current job?

21 A I am the Jail Administrator for the Monroe County
22 Jail.

23 Q How long have you been the Administrator?

24 A Since June 30th of last year.

25 Q What does it mean to be the Jail Administrator?

 STANLEY HENDRICKSON - DIRECT

1 A I'm in charge of the day-to-day operations of the
2 jail and the staff that works in the jail.

3 Q What was the position you held before you became
4 the Jail Administrator?

5 A I was the Jail Sergeant, third shift supervisor.

6 Q And I take it that was your rank at the time?

7 A Yes.

8 Q And how long did you serve as Jail Sergeant?

9 A From October 1st of 2003 until June 30th of last
10 year.

11 Q So about eight years?

12 A Correct.

13 Q And what was your job -- what were your job duties
14 as a Jail Sergeant?

15 A I was in charge of the operation of my shift and
16 the staff that was underneath me.

17 Q On a typically shift how many staff would be under
18 your supervision?

19 A Two besides myself.

20 Q What ranks would those two individuals hold?

21 A They would be just regular jailers.

22 THE COURT: Could you pull your chair up closer
23 and speak into the microphone?

24 THE WITNESS: Yes, Ma'am.

25 THE COURT: You can move it if it's more
STANLEY HENDRICKSON - DIRECT

1 comfortable for you.

2 Q What was your job and rank at the Sheriff's
3 Department before you became a Sergeant?

4 A I was a jailer.

5 Q And that was for about three years?

6 A Correct.

7 Q How old are you?

8 A I am 48.

9 Q And where did you grow up?

10 A My first ten years we lived here in Wisconsin and
11 then my family moved to Hot Springs, South Dakota.

12 Q And briefly what is your educational background?

13 A I graduated from high school at Hot Springs High
14 School, went to college, went to college for roughly
15 two-and-a-half years, and then went into the military.

16 Q And are you certified by the State of Wisconsin as
17 a corrections officer?

18 A Yes, I am.

19 Q How long have you held that certification?

20 A Since October -- in 2001. I don't know the exact
21 month.

22 Q And you were on duty on May 21st, 2010?

23 A Yes, I was.

24 Q And what was your shift that day?

25 A I was the third shift supervisor.
STANLEY HENDRICKSON - DIRECT

1 Q And so when would you have come on and how long was
2 your shift scheduled to last that day?

3 A I would have began my shift at 2300 or 11 p.m. on
4 the 20th of May and it would have ended at 7:30 in the
5 morning on the 21st.

6 Q And at some point on either of those two days did
7 you become aware that there was some sort of situation
8 with Mr. Kingsley?

9 A Yes, I did.

10 Q And when did you first learn that?

11 A Deputy Manka approached me when I came on shift and
12 explained there was an issue of Mr. Kingsley not
13 removing paper off the light and that he was going to
14 write him on a minor rule violation.

15 Q So this would have been on shift change at eleven
16 o'clock on the 20th?

17 A Correct.

18 Q What specifically did Deputy Manka tell you?

19 MR. PARDON: Objection. Hearsay.

20 THE COURT: Sustained.

21 MR. JONES: Your Honor, I believe it goes to
22 the information that this officer had to take the
23 actions he did.

24 THE COURT: If it's limited to that, you may
25 answer.

STANLEY HENDRICKSON - DIRECT

1 BY MR. JONES:

2 Q Do you remember what I asked you?

3 A Could you repeat the question?

4 Q What did Officer Manka tell me?

5 A He told me that the paper was still on the light.

6 It needed to come down yet, and I agreed. And he also

7 told me that Mr. Kingsley had made a statement about

8 better call the CERT team.

9 Q What did you make of that comment, if anything?

10 A I took it seriously. We don't take threats like

11 that or statements like that lightly.

12 Q Did Officer --

13 A We don't have the luxury to take them lightly.

14 Q Did Officer Manka tell you it was a joke?

15 A No, he did not.

16 MR. PARDON: Objection.

17 THE COURT: Overruled.

18 BY MR. JONES:

19 Q So what did you do once you learned this

20 information from Officer Manka?

21 A Since it was after lockdown, I decided that we

22 could deal with it in the morning after open up.

23 Q Why did you think it was something that could wait

24 until the morning?

25 A I didn't see a sense of urgency at that time.

STANLEY HENDRICKSON - DIRECT

1 Q At some point, did you, in fact, seek to have him
2 take the paper down?

3 A Yes, I did.

4 Q When was that?

5 A The following morning during my medication pass.

6 Q And so tell us what occurred.

7 A I went back to deliver medications to Mr. Kingsley.
8 He refused to take his meds. Then I began a
9 conversation with him on removing the paper.

10 Q Let me ask you: Had anyone gone to talk to
11 Mr. Kingsley about the paper and the light after Officer
12 Manka but before you did?

13 A Deputy Blanton did.

14 Q And did Deputy Blanton tell you anything about what
15 happened when he spoke to Mr. Kingsley?

16 A That it was unsuccessful.

17 Q And so you then went to speak to him?

18 A Correct.

19 Q And this was during the medication rounds?

20 A Yes.

21 Q And for the record, can you tell us what you're
22 referring to by medication rounds?

23 A We pass medications to inmates at certain times
24 during the day and I was in charge of doing medication
25 pass at that time, that morning.

STANLEY HENDRICKSON - DIRECT

1 Q And what time was that again?

2 A Approximately 5:50, 5:45.

3 Q And did you talk to Mr. Kingsley?

4 A Yes, I did.

5 Q And can you relate to us the substance of that
6 conversation?

7 A I asked him to remove the paper. He made comments
8 he didn't put it up there, he wasn't going to do it. I
9 told him I understood what he was saying, but he still
10 needed to remove the paper, and he continued to state
11 that he was not going to do it and eventually just
12 stopped talking to me.

13 Q At any point in that conversation did he indicate a
14 willingness to do what you had asked him to do?

15 A No, he did not.

16 Q At any point during that conversation did you give
17 him a direct order to remove --

18 A Yes.

19 Q -- the paper?

20 A Yes, I did.

21 Q At any point in that conversation did he tell you
22 he was willing to do it, but he didn't think he was tall
23 enough?

24 A No, he did not.

25 Q Did that ever come up in your -- any of your
STANLEY HENDRICKSON - DIRECT

1 communications with Mr. Kingsley about the paper over
2 the light?

3 A No.

4 Q Why was it necessary in your mind to have
5 Mr. Kingsley take the piece of paper down in the first
6 place?

7 A Visibility into the cell. You have to look through
8 a couple sets of bars to see him and it hinders our
9 ability to see them and a possible fire hazard.

10 Q Did you think it was an emergency?

11 A Not at the time, no.

12 Q You referred to Deputy Manka talking about issuing
13 a minor discipline to Mr. Kingsley as a result of his
14 conversation with him?

15 A Yes.

16 Q Did you consider that minor discipline was
17 appropriate given what had occurred?

18 A Yes.

19 Q Why was it necessary to issue discipline to
20 Mr. Kingsley as a result of what had occurred?

21 A Failure to follow staff direction.

22 Q Why does that warrant any form of discipline?

23 A If we have inmates that don't follow staff
24 direction and it gets out throughout the facility, we
25 have no order. No control. Hence safety security

STANLEY HENDRICKSON - DIRECT

1 issues.

2 Q Why is it important to have control and order in
3 the jail?

4 A Due for safety and security issues. If you do not
5 have control, you're going to have people basically
6 doing what they want to do and they're supposed to be in
7 a controlled environment.

8 Q So what did you do -- let me ask you first: Was
9 there anything more to your conversation with
10 Mr. Kingsley about 5:45/5:50 on the 21st that you
11 haven't already told us about?

12 A After attempting to get Mr. Kingsley to remove the
13 paper, I gave him firm command tones to take the paper
14 down now, which he did not do. And I said, "Don't make
15 this into something it shouldn't be." And he returned
16 with a reply and said, "No, you are."

17 Q What happened next?

18 A That's when I left to finish medication. We'll
19 deal with it after that. I informed Sergeant Blanton to
20 call for backup too.

21 Q Why did you tell Officer Blanton to call for
22 backup?

23 A In cases where there's just a few of us on and we
24 need backup in case the individual decides to become
25 combative, resistive, for whatever reason, we call for
STANLEY HENDRICKSON - DIRECT

1 backup from the road, assistance from the road.

2 We also use it as a show of force to hopefully
3 persuade them that you've got five people standing in
4 front of you, it's time to change your mind.

5 Q Mr. Kingsley hadn't -- he hadn't threatened to
6 assault you, had he?

7 A No.

8 Q He hadn't told you that he was going to physically
9 resist, had he?

10 A No, he didn't say he was.

11 Q So can you explain why then it was still necessary
12 to have backup?

13 A Due to Mr. Kingsley's refusal to take the paper
14 down, I determined that he would be facing more charges
15 or more disciplinary action for failure to follow staff
16 directions and we were going to move him to a receiving
17 cell so we could get the paper off, and he would be
18 facing future discipline.

19 Q What's the next thing that happened in connection
20 with this set of events?

21 A I called Lieutenant Conroy to inform him of the
22 events that had happened so far and he stated that he
23 was on his way in.

24 Q And he came in; correct?

25 A That's correct.

STANLEY HENDRICKSON - DIRECT

1 Q And he went to see Mr. Kingsley; correct?

2 A This is correct.

3 Q You weren't in the cellblock when he did that;
4 correct?

5 A I don't remember if I was the one standing just
6 inside or in the doorway.

7 Q Okay. What did Lieutenant Conroy tell you, if
8 anything, after he had been to see Mr. Kingsley?

9 A As we exited south block, when Lieutenant Conroy
10 exited south block, his statement was --

11 MR. PARDON: I'm going to object to this as
12 hearsay.

13 MR. JONES: For the same reason as before.

14 THE COURT: Sustained.

15 BY MR. JONES:

16 Q What occurred after Lieutenant Conroy exited the
17 cellblock?

18 A He informed us that Mr. Kingsley would be going to
19 receiving.

20 Q And at some point you and other officers, five
21 officers total, went to the cellblock to Mr. Kingsley's
22 cell?

23 A Correct.

24 Q And what happened once you were outside
25 Mr. Kingsley's cell?

STANLEY HENDRICKSON - DIRECT

1 A We again tried to talk him into taking the light
2 [verbatim] down and cooperate with us. And that he was
3 going to receiving.

4 Q What did you specifically say to him?

5 A I told him to stand up, back up to the door, so he
6 could be handcuffed.

7 Q And did he do that?

8 A No, he did not.

9 Q Did he tell you -- did he say anything in response
10 to that?

11 A I believe his comments were, "I didn't do nothing
12 wrong. I didn't do nothing wrong."

13 Q Did he otherwise explain to you why he wouldn't
14 stand up and -- with his back to the cell door as you
15 had requested?

16 A No.

17 Q At some point you and Officer Blanton went into the
18 cell; correct?

19 A Correct.

20 Q Can you tell us what happened once you went into
21 the cell with Officer Blanton?

22 A I was going to do the handcuffing and Deputy
23 Blanton was going to maintain control of the lower body.
24 As I attempted to put the first handcuff on,
25 Mr. Kingsley became resistive, tensing, moving his arm,
STANLEY HENDRICKSON - DIRECT

1 hindering me from actually get the cuffs on. I got the
2 one cuff on and had difficulty getting the second on.
3 Deputy Blanton had to assist me in gaining control of
4 the arms so we could place it in the cuff.

5 Q You were ultimately able to get the cuff on though?

6 A Yes, we were.

7 Q What happened from that point forward?

8 A We told Mr. Kingsley to help us get him up into a
9 sitting position is what we were attempting to do. We
10 got him up in the sitting position, went to pull -- have
11 him stand up, and that's when he started claiming his
12 foot. His comments were "My foot, my foot."

13 We asked him numerous times what's wrong with your
14 foot, what's wrong with your foot, which foot, to no
15 response.

16 Q Did you or Officer Blanton drag Mr. Kingsley off of
17 his bunk?

18 A No.

19 Q Did you drag him from the bunk onto the floor?

20 A No, we did not.

21 Q How did you respond to Mr. Kingsley's, if you did,
22 Mr. Kingsley's statements about his foot?

23 A We continued asking him which foot? What's wrong
24 with your foot?

25 Q Did he respond?

STANLEY HENDRICKSON - DIRECT

1 A No.

2 Q Did he tell you what was wrong with his foot?

3 A No, he didn't.

4 Q Did he tell you which foot it was?

5 A No.

6 Q Did he tell you how it was hurt?

7 A No.

8 Q In the course of handcuffing Mr. Kingsley, did you
9 see anything happen that injured his foot?

10 A No, I did not.

11 Q At some point, you and Officer Blanton carried
12 Mr. Kingsley from the cell?

13 A That's correct.

14 Q Can you, in your own words, tell us how you carried
15 him?

16 A Well, when he wouldn't get up and move on his own,
17 we decided to carry him down and out of the cell. I
18 believe Officer Blanton had him underneath his left arm,
19 I had his underneath his right arm, and we were carrying
20 him that way. His knees and lower legs were behind him
21 dragging.

22 Q And you carried him from the cell out into the main
23 hall of the jail; correct?

24 A Correct.

25 Q Who was the officer who actually put the handcuffs
STANLEY HENDRICKSON - DIRECT

1 on?

2 A I got the first one on and then with assistance
3 from Deputy Blanton we got the second one in the cuff.

4 Q They were your handcuffs?

5 A Yes.

6 Q And did you double lock the handcuffs before you
7 left the cell?

8 A I believe I did.

9 Q And what -- did you check them for fit?

10 A I would have slipped my finger near the handcuff,
11 yes.

12 Q What are you doing when you're doing that?

13 A See if there's space, room enough so they're not
14 tight -- too tight, I'm sorry.

15 Q And you did that on this instance?

16 A I believe I did.

17 Q So out in the main hallway -- we've seen the video
18 recording of what happened out in the main hallway. But
19 in your own words, can you tell us what occurred out in
20 the main hallway of the jail?

21 A Once we exited south block, we placed Mr. Kingsley
22 on the floor and continued to ask him what was wrong
23 with his foot; which foot hurt; what was wrong. He
24 never did respond.

25 Q Did he ever tell you what was wrong with his foot?

STANLEY HENDRICKSON - DIRECT

1 A No, he did not.

2 Q Did he ever tell you which foot it was?

3 A No, he didn't.

4 Q Did he ever tell you why, whatever he was feeling
5 in his foot, prevented him from walking under his own
6 power?

7 A No.

8 Q Was Mr. Kingsley awake when he was lying on the
9 ground out on the floor out in the main hallway?

10 A Yes, he was.

11 Q So then he was carried into the receiving cell;
12 correct?

13 A Correct.

14 Q Four officers carried him?

15 A That's correct.

16 Q Why didn't four officers carry him originally out
17 of his cell into the main hallway?

18 A The way the jail is designed, you don't have enough
19 room. There's not enough people to get four people
20 around him. So we got him out as best and as safely as
21 we could.

22 Q I'd like to show you what was marked as Exhibit
23 510B. Is that up on your screen?

24 A Yes, it is.

25 Q Very briefly can you tell us what this exhibit is?
STANLEY HENDRICKSON - DIRECT

1 A It is a floor plan of the section of the jail.

2 Q And there are some red lines on the jail; yes?

3 A Yes, there are.

4 Q What do those lines depict?

5 A They indicate the direction from the fifth cell in
6 south block down the hallway, out the hall into the
7 foyer area of receiving, into the third receiving cell.

8 Q What do those lines coincide with as it relates to
9 this case?

10 A The route that we took Mr. Kingsley.

11 MR. JONES: I'd like to move the admission of
12 510B, Judge.

13 MR. PARDON: No objection.

14 THE COURT: I have 10E [verbatim] is received.

15 MR. JONES: May we publish it to the jury,
16 Judge?

17 MR. PARDON: Yeah.

18 THE COURT: Yes, you may.

19 MR. PARDON: Sorry.

20 BY MR. JONES:

21 Q And again, as we're looking at this, this simply
22 relates the route that Mr. Kingsley was taken from his
23 cell to the receiving cell; correct?

24 A Correct.

25 Q Am I correct that once Mr. Kingsley was in the
STANLEY HENDRICKSON - DIRECT

1 receiving cell and had been laid on the bunk, you and
2 Officer Blanton were attempting to take the handcuffs
3 off?

4 A Correct.

5 Q And we've heard testimony from Officer Blanton and
6 Lieutenant Conroy on this subject, but I'd like in your
7 own words for you to tell us why you were trying to take
8 his handcuffs off.

9 A To take the handcuffs off?

10 Q Yes.

11 A We generally do not leave people unattended in a
12 cell with handcuffs on due to the possibility of
13 injuring themselves.

14 Q You said generally you don't do that?

15 A Well, we don't. Standard practice is we don't.

16 Q All right. Do you ever do that if you can avoid
17 doing it?

18 A Absolutely. Absolutely avoid it, yes.

19 Q Just to be clear, you're saying you absolutely
20 avoid leaving people in the cells with handcuffs on?

21 MR. PARDON: Objection. Leading.

22 THE COURT: Overruled.

23 THE WITNESS: Yes.

24 MR. JONES: Thank you.

25
STANLEY HENDRICKSON - DIRECT

1 BY MR. JONES:

2 Q Did you say anything to Mr. Kingsley as Officer
3 Blanton was trying to take the handcuffs off?

4 A "Stop resisting. Relax. Stop resisting. Relax."
5 Numerous times.

6 Q We heard on the audio from the recording that
7 different tones of voice were used; correct?

8 A Correct.

9 Q Can you explain why you and the other officers used
10 different tones of voice as you were speaking to
11 Mr. Kingsley?

12 A To try to persuade him.

13 Q And what was the purpose of using more aggressive
14 louder tones of voice?

15 A To deliver an ultimatum to get him, you know, to
16 stop, relax right now so we can get these off.

17 Q And what did you personally observe Mr. Kingsley
18 doing as you were trying to take the handcuffs off?

19 A He was flexing and tensing, moving his hands,
20 shrugging back and forth, making it hard to remove the
21 handcuffs.

22 Q And flexing and tensing, flexing and tensing what?

23 A His arms, his body, pulling his arms apart,
24 tightening his muscles, making it difficult so we
25 couldn't maneuver to get in to get the handcuffs off.

STANLEY HENDRICKSON - DIRECT

1 Q When you said he was moving his hands, can you tell
2 us how he was moving his hands?

3 A Back and forth, twisting them out, pulling them
4 apart.

5 Q And you said he was shrugging. Can you tell us
6 what you mean by that?

7 A The shoulders moving like this back and forth.
8 (Indicating)

9 Q Can you describe it for the record?

10 A Side to side I guess would be the best way to
11 describe it.

12 Q In your own words, can you tell us why that made it
13 difficult to take the handcuffs off?

14 A It's hard enough to take them off when you're being
15 still. It's a small hole, a small key. When people are
16 moving and the cuffs are being moved, they're being
17 taunt, it's really difficult to try to get those off.

18 Q Was there any other movement that you observed in
19 Mr. Kingsley's upper body beyond what you've already
20 described for us?

21 A He raised his upper torso off the bunk.

22 Q What did you hear Mr. Kingsley say as this was
23 going on?

24 A "Get the mother's off, get the motherf'ers off" at
25 one point and "get the 'f' out at another point."

STANLEY HENDRICKSON - DIRECT

1 Q At any point after you put -- well, strike that.

2 At any point in the receiving cell did Mr. Kingsley say
3 to you or any of the other officers that he was in pain?

4 A No, he did not.

5 Q Did Mr. Kingsley at any point in the receiving cell
6 say to you or the other officers that the handcuffs were
7 too tight?

8 A No, he did not.

9 Q Did he say to you at any point after you put the
10 handcuffs on that they were too tight?

11 A No.

12 Q Did he say to you at any point in the receiving
13 cell that he couldn't do what you were asking him to do?

14 A No, he did not.

15 Q We've listened to the recording obviously and we've
16 heard other sounds that Mr. Kingsley was making. Do you
17 remember those sounds?

18 A Yes.

19 Q How did you perceive those sounds?

20 A As anger. Aggressive sounds.

21 Q And can you tell us why that was your reaction to
22 those?

23 A The tone and the growl that was in the noise.

24 Q You told us that you had directed him to stop
25 resisting and to relax; right?

STANLEY HENDRICKSON - DIRECT

1 A Correct.

2 Q Did you do anything physically to respond to what
3 you were seeing and hearing from him?

4 A At one point when he lifted his torso up, I tried
5 to stabilize him by pushing down on his upper torso, and
6 with my hand to his head, I had my hand -- do you want
7 me to demonstrate?

8 Q Sure.

9 A I had my hand on the side of his head holding him
10 down so he was more stable so he couldn't move around.
11 I did at one point place my thumb in a pressure point
12 right below the ear.

13 Q And why did you react to him lifting his torso off
14 the bunk with what you've just described for us?

15 A It was my feeling that was an aggressive move. I
16 felt threatened by it, so I wanted to restabilize and
17 put him back down so he was not able to move around.

18 Q And why did you put your hand on his head in the
19 way you've described?

20 A Once I pushed down on him and had him down, his
21 head -- his mouth was open, his head went towards my
22 lower shanks. I had my leg back up on the -- across his
23 shoulder area and his mouth was open and he came towards
24 me I think at that point and that's when I placed my
25 hand -- I moved my hand up to his head right away.

STANLEY HENDRICKSON - DIRECT

1 Q And the pressure point that you described, can you
2 tell us a little bit more specifically what you were
3 doing?

4 A I was taking the thumb, the pad of my thumb, and
5 pushing in towards the other side. There's a cluster of
6 nerves there. If you push on it, it causes a pain
7 sensation and you try to gain compliance by using
8 pressure points.

9 Q Is that something that you're trained to do as part
10 of jail school?

11 A Yes.

12 Q You mentioned in one of your answers just now the
13 placement of your leg on Mr. Kingsley.

14 A Yes.

15 Q Can you tell us again what you were doing in that
16 respect?

17 A I was trying to maintain control of Mr. Kingsley by
18 stabilizing with the leg and shin area of my right leg.

19 Q And where was the leg and shin area of your right
20 leg? Where did you have that on him?

21 A Across the upper back, the shoulder area.

22 Q Did you -- how much pressure did you have on your
23 leg when you were doing that?

24 A I was applying just enough pressure to maintain
25 control.

STANLEY HENDRICKSON - DIRECT

1 Q Did you have the weight of your knee directly on
2 Mr. Kingsley's spine?

3 A No, I did not.

4 Q Did you put the weight of your knee directly on his
5 neck?

6 A No, I did not.

7 Q Did you put the weight of your knee or leg directly
8 on his head?

9 A No, I did not.

10 Q The things that you've described that you did and
11 said, to your observation did they have any effect on
12 getting Mr. Kingsley to stop doing what he was doing?

13 A No, it did not.

14 Q So he continued with the behaviors that you've
15 already described?

16 A That's correct.

17 Q Did you have any concerns about what was happening
18 in the receiving cell?

19 A Yes, I did.

20 Q What were your concerns?

21 A Well, my concerns were for safety for not only the
22 staff and other officers' safety, but for Mr. Kingsley
23 as well.

24 Q What specifically were your concerns in terms of
25 safety?

STANLEY HENDRICKSON - DIRECT

1 A Injury. Mr. Kingsley could bump his head, roll off
2 the bed with the cuffs left on. He could slap his head
3 into the wall if he kept thrashing around, enough to
4 where he got over there. Officers' safety. Kicking.
5 Biting. There's a metal lip on the edge of the bed.
6 Somebody could have slipped and was injured that way.

7 Q You mentioned that, to go back a little bit in your
8 testimony, you mentioned at one point in connection with
9 when you had your hand on Mr. Kingsley's head that he
10 had his mouth open and in your direction; correct?

11 A Correct.

12 Q Did that raise any concerns for you?

13 A Yes, it did.

14 Q What was the concern?

15 A The concern of biting.

16 Q Mr. Conroy, Lieutenant Conroy in his testimony,
17 there were some questions and he gave some testimony
18 about conversation you and he had after these events --

19 A Correct.

20 Q -- correct? Can you relate to us in your own words
21 what happened or what that conversation was about?

22 A We spoke about the reason for the tase, why we used
23 the taser. We discussed the plan forward from that
24 point too.

25 Q And what was the discussion about in terms of the
STANLEY HENDRICKSON - DIRECT

1 use of the taser?

2 A He asked what was the reasoning I ordered the tase
3 and one was the attempt -- I want to say because of the
4 use of the -- due to Mr. Kingsley's continued resistance
5 is the best word I can think of. He would not stop,
6 would not comply. We already tried verbalizing, talking
7 to him, commanding him. I did try the pressure point.
8 He was still not complying, so we used a taser to see if
9 we could gain compliance. It didn't work.

10 Q And was there some part of that conversation that
11 related to your concern about Mr. Kingsley biting you?

12 A I had mentioned that there was a prior incident
13 where there was an attempted bite on me. I did not
14 claim it was Mr. Kingsley at the time.

15 Q And this prior incident, was it, in fact,
16 Mr. Kingsley?

17 A No, it was not.

18 Q Had Mr. Kingsley ever tried to bite you in the
19 past?

20 A No, he did not.

21 Q And Mr. Conroy also testified that at some point
22 some number of days after May 21st that you called him
23 to speak about that specific issue again?

24 A That's correct.

25 Q And can you relate to us why you called Lieutenant
STANLEY HENDRICKSON - DIRECT

1 Conroy on that occasion?

2 A I had seen Mr. -- Lieutenant Conroy's report and it
3 said I told him that Mr. Kingsley tried to bite me and I
4 told him that that was not factual.

5 Q Is it fair to say that you -- well, from your
6 perception, is it fair to say that you and Lieutenant
7 Conroy had miscommunicated about that issue?

8 A Yes.

9 MR. PARDON: Objection.

10 Q I want to go back to May 21st. We had talked about
11 your efforts physically and verbally to respond to what
12 Mr. Kingsley was doing; correct?

13 A Correct.

14 Q And at some point you directed Deputy Degner to use
15 the taser; correct?

16 A Correct.

17 Q And are you yourself trained to use a taser?

18 A Yes, I am.

19 Q And what was the course of training that you
20 undertook to learn that? Sorry, I'll ask a better
21 question.

22 A Okay.

23 Q When were you trained to use the taser?

24 A We get training every -- I believe it's every other
25 year on the taser.

STANLEY HENDRICKSON - DIRECT

1 Q Okay. And can you tell us in your own words why
2 you told Deputy Degner to tase Mr. Kingsley?

3 A Due to the concerns I had for injury to
4 Mr. Kingsley and the staff and the noncompliance up to
5 that point of Mr. Kingsley's resistance.

6 Q What did you hope to accomplish by using the taser?

7 A His compliance. His stopping of the resistance.
8 We could remove the cuffs and exit safely.

9 Q Mr. Kingsley testified that you said loud enough
10 for him to hear "tase his ass."

11 A I did not.

12 Q Did you say that?

13 A No, I did not.

14 Q At the point in time when you told Deputy Degner to
15 tase him, did you feel there were other suitable or
16 reasonable alternatives to using a taser?

17 A Not at the time, no.

18 Q Can you explain why that was your reasoning?

19 A The only other option would be going to the next
20 level actually, using four strikes, and I didn't see it
21 necessary to do that.

22 Q And you had used presence, that is the physical
23 presence of officers; correct?

24 A Correct.

25 Q And you had used dialogue; correct?
STANLEY HENDRICKSON - DIRECT

1 A Correct.

2 Q That is you had tried to verbally communicate with
3 him.

4 A Correct.

5 Q You had used physical efforts on your part --

6 MR. PARDON: I'm going to object to this line
7 of questioning as leading.

8 THE COURT: Sustained.

9 BY MR. JONES:

10 Q If Mr. Kingsley was resisting, why in your mind was
11 it still a good idea to take the handcuffs off?

12 A Going back again to the possibility of injury to
13 Mr. Kingsley if you left him alone with handcuffs on and
14 the possibility of doing a re-injury and having more
15 risk to staff at the time.

16 Q Once the taser was used, did Mr. Kingsley stop
17 doing what he was doing?

18 A No, he did not.

19 Q Can you describe what was occurring after the taser
20 was used?

21 A He was still resistive.

22 Q Was it the same behaviors or was it different
23 behaviors from that point?

24 A He was still moving his hands, pulling his hands
25 apart slightly.

STANLEY HENDRICKSON - DIRECT

1 Q In that respect was the taser used a success?

2 A No.

3 Q At that point, Lieutenant Conroy directed everyone
4 to exit the cell; am I right?

5 A Correct.

6 Q And did you use any force on Mr. Kingsley from that
7 point forward?

8 A No.

9 Q Did you have any further interactions with
10 Mr. Kingsley as it relates to this incident from that
11 point for?

12 A No.

13 Q Before we finish, I'd just like to go back briefly
14 to the use of the taser. Did you direct that Deputy
15 Degner use the taser against Mr. Kingsley because he
16 wouldn't take the paper off the light in his cell?

17 A No.

18 Q Did that have anything to do with why you decided
19 it was necessary to use the taser?

20 A No.

21 Q Did you direct that Deputy Degner use the taser
22 against Mr. Kingsley out of anger?

23 A No.

24 Q Were you angry at him?

25 A No.

STANLEY HENDRICKSON - DIRECT

1 Q And did you direct that Deputy Degner use the taser
2 in some way to show who was boss?

3 A No.

4 Q Is that anything that you do as an officer?

5 A No, it is not.

6 Q Did you direct that the taser be used as punishment
7 for Mr. Kingsley?

8 A No.

9 Q And did you direct that the taser be used in some
10 way to harm Mr. Kingsley?

11 A No.

12 MR. JONES: Thank you. (2:36 p.m.)

13 THE COURT: Mr. Pardon.

14 MR. PARDON: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. PARDON:

17 Q Again, I apologize for calling you Sergeant
18 Hendrickson. Since everybody has, I'm going to address
19 you as Sergeant Hendrickson. Okay?

20 A That's fine.

21 Q Turning your attention to the evening before this
22 incident, just want to be clear, you personally did not
23 have any contact with Mr. Kingsley on the night of May
24 20th; correct?

25 A Correct.

STANLEY HENDRICKSON - CROSS

1 Q You came on the shift, I think you said at eleven
2 o'clock; right?

3 A Correct.

4 Q And you're only aware of the incident with the
5 paper because Deputy Manka told you about it; right?

6 A Right.

7 Q So you decided to wait until the morning to do
8 anything about it.

9 A Yes.

10 Q All right. At least again with respect to
11 Mr. Kingsley's behavior that evening, you didn't think
12 there was any immediate threat; right?

13 A Correct.

14 Q And in fact, you never personally heard
15 Mr. Kingsley say anything about calling out the CERT
16 team; right?

17 A That's correct.

18 Q All right. And then I think you testified that you
19 went to talk to Mr. Kingsley in the morning while you
20 were doing medication pass and that was around 5:45; is
21 that correct?

22 A I believe so, yes.

23 Q And he was still lying in his bunk when you talked
24 to him; right?

25 A Yes.

STANLEY HENDRICKSON - CROSS

1 Q And he stayed in his bunk while you were talking to
2 him?

3 A Yes.

4 Q You didn't feel threatened by him then; right?

5 A No.

6 Q And then a little while later a group of you came
7 to move Mr. Kingsley from his cell; right?

8 A Yes.

9 Q And you testified that you had asked him to put his
10 hands behind his back and you said that he didn't come
11 to the cell door; correct?

12 A I'm sorry. You said he didn't come to the cell
13 door?

14 Q Let me reask my question, all right?

15 A Okay.

16 Q Eventually Mr. Kingsley complied with orders from
17 Lieutenant Conroy to put his hands behind his back;
18 correct?

19 A Correct.

20 Q And at the time he complied with that order, he was
21 lying face down on his bunk; right?

22 A Yes.

23 Q He wasn't threatening anyone then; right?

24 A No.

25 Q All right. You and Deputy Blanton went into the
STANLEY HENDRICKSON - CROSS

1 cell and you eventually -- you and Deputy Blanton
2 eventually put handcuffs on Mr. Kingsley; right?

3 A Correct.

4 Q All right. And you testified that Mr. Blanton,
5 Deputy Blanton, assisted you because you needed
6 assistance with the second hand; correct?

7 A Correct.

8 Q And you didn't need anybody else to come into the
9 cell and assist you; correct?

10 A Not at that time, no.

11 Q Okay. Yeah. Again, we're talking about when you
12 first applied the handcuffs.

13 A Right.

14 Q Right. Now you testified that you think you may
15 have double locked the handcuffs then; is that correct?

16 A I believe I did. I can't recall a time where I've
17 handcuffed anybody where I've not double locked them.

18 Q You didn't write that in your report that you
19 double locked them; right?

20 A Right.

21 Q You didn't write in your report that you had
22 checked for the safety and the fit and everything like
23 that; right?

24 A Right.

25 Q All right. And while this was going on,
STANLEY HENDRICKSON - CROSS

1 Mr. Kingsley didn't strike out or attempt to hit anybody
2 at all; right?

3 A No.

4 Q And once you got Mr. Kingsley out of the cell into
5 the hallway, you don't recall him struggling when you
6 were carrying him down the hallway; isn't that correct?

7 A Light struggling. Very little, if any.

8 Q Okay. Could you turn to your deposition that is --
9 hopefully you can locate it in the binder there. Your
10 name should be on the tab.

11 A Okay.

12 Q If you could find page 47, please. And again, if
13 there's four sections on the page, you look on the
14 little section, the number next to the box. Yeah.

15 A Yes.

16 Q Okay. You found it?

17 A Page 47?

18 Q Okay. Could I ask you to turn to line 15, please.

19 A Okay.

20 Q All right. Now when you gave this deposition, you
21 were under oath; right?

22 A Correct.

23 Q All right. And you were asked a question:

24 "Question: Okay. Did Mr. Kingsley resist while
25 you were carrying him down the hallway?

STANLEY HENDRICKSON - CROSS

1 "Answer: I don't recall if he was struggling much
2 then or not."

3 Lines 15 through 18. Were you asked that question
4 and did you give that answer then?

5 A Yes.

6 Q Okay. Thank you. When you initially placed
7 Mr. Kingsley on the bunk in the receiving cell, he
8 wasn't resisting you at all as far as you can recall;
9 correct?

10 A As far as I can recall, no.

11 Q So just taking a step back for a second, as I
12 understand this, once he was cuffed in his own cell, you
13 had control of him; right?

14 A Yes.

15 Q And you had control of Mr. Kingsley when you were
16 in the hall and you were carrying him; right?

17 A Correct.

18 Q And so as I understand your testimony, you were
19 trying to maintain control of him in the receiving cell;
20 right?

21 A Correct.

22 Q Because you claim he was moving around trying to
23 keep you from getting the cuffs off.

24 A Correct.

25 Q But you didn't feel threatened by this resistance,
STANLEY HENDRICKSON - CROSS

1 did you?

2 A Could you repeat that?

3 Q You didn't personally feel threatened by his moving
4 around trying to get the cuffs off, did you?

5 A Moving around? Yes, I was concerned that -- I had
6 concerns for possible injury, yes.

7 Q Okay. Could you turn to page 59 of your
8 deposition, please.

9 A Yes. I'm there.

10 Q Okay. Could you go to line six.

11 A Yes.

12 Q I'm going to read you lines 6-13, okay?

13 "Question: Okay. And when you were trying to
14 maintain control -- and you were trying to maintain
15 control of him in receiving?

16 "Answer: Because he was struggling.

17 "Question: And you said he was thrashing around.

18 "Answer: Moving around, trying to keep us from
19 getting the cuffs off.

20 "Question: Did you feel threatened by his
21 resistance?

22 "Answer: At that point probably not."

23 Were you asked those questions and did you give
24 those answers when you were under oath?

25 A Yes.

STANLEY HENDRICKSON - CROSS

1 Q Okay. Now eventually you told Deputy Degner to
2 deploy the taser; correct?

3 A Correct.

4 Q And that's because Mr. Kingsley was still
5 resisting; right?

6 A Correct.

7 Q All right. But in fact, at the time you deployed
8 the taser, you didn't really feel threatened by that
9 resistance, did you? I mean you were mainly concerned
10 that if things escalated, you might feel threatened;
11 isn't that correct?

12 A I had concerns of possible injury; correct.

13 Q Okay. So you were mainly concerned that if it got
14 worse, things...; right?

15 A Correct.

16 Q All right. Again, you weren't actually threatened
17 at that time.

18 A Correct.

19 Q All right. And just to be clear, from the entire
20 time you handcuffed Mr. Kingsley, brought him to the
21 receiving -- I'm sorry. I'll ask my question again.

22 From the entire time you handcuffed him in his cell
23 to when you left after he was tased, he didn't strike
24 out at anybody; right?

25 A Correct.

STANLEY HENDRICKSON - CROSS

1 Q If you will bear with me for a second, I'm going to
2 -- I'll call up the video.

3 MR. PARDON: Your Honor, may I publish Exhibit
4 14, which is the receiving cell video, to the jury?

5 THE COURT: Sure. That's in evidence.

6 MR. PARDON: Okay.

7 THE COURT: Go ahead.

8 BY MR. PARDON:

9 Q Now you've reviewed the video in this case
10 recently, the videos?

11 A Yes.

12 Q More than once I assume; right?

13 A Yes.

14 Q Many times?

15 A I don't know how many times.

16 Q Okay. You reviewed the video in preparation for
17 your testimony; right?

18 A Yes.

19 Q Please bear with me while I locate a spot that I
20 want to ask you a question about.

21 MR. PARDON: And for the record I'm going to
22 start -- well, I'll wait until I get there before I say
23 where I am.

24 All right. For the record I'm -- I would like to
25 start the video and play a portion of the video

STANLEY HENDRICKSON - CROSS

1 beginning at 6:44:30. I'm going to go ahead now.

2 (Video played)

3 Q I stopped it at 6:44:47 and I have a couple
4 questions about who said what there. At one point was
5 that you who said -- who yelled -- who said, "Are you
6 going to relax while I take these off?"

7 A Yes.

8 Q All right. And it was Mr. Kingsley who responded
9 "Take the motherf'ers off"; right?

10 A Correct.

11 Q And after that, it was you who responded "no, they
12 can stay on then"; right?

13 A Correct.

14 Q Did you ever consider that Mr. Kingsley was in pain
15 when this was going on?

16 A No, I did not.

17 Q Okay. Now you testified that you were attempting a
18 -- to apply a pressure point to -- a mandibular pressure
19 point, was it?

20 A Correct.

21 Q You never wrote that in your report, did you?

22 A No, I did not.

23 Q Now you were not the one who decided to halt what
24 was going on in the cell; right? It was Lieutenant
25 Conroy.

STANLEY HENDRICKSON - CROSS

1 A Correct.

2 Q And after the taser was deployed, you continued to
3 shout at Mr. Kingsley to relax, didn't you?

4 A Correct.

5 Q You basically continued to shout at him until
6 Lieutenant Conroy put a stop to the matter; correct?

7 A That's correct.

8 Q Would you have tased him again?

9 A Probably not.

10 Q Are you sure?

11 A Absolutely.

12 Q All right. After you exited the cell, you talked
13 to Lieutenant Conroy a little bit about the tasing
14 incident; correct?

15 A That's correct.

16 Q You don't remember exactly what Lieutenant Conroy
17 asked you, do you?

18 A Not at this moment, no.

19 Q You don't remember at this moment; right?

20 A Correct.

21 Q All right. And you don't remember whether
22 Lieutenant Conroy actually asked you to justify the
23 taser, do you? You don't have any memory of that.

24 A I can't recall, no.

25 Q You can't recall whether you have memory or you
STANLEY HENDRICKSON - CROSS

1 can't recall whether Lieutenant Conroy --

2 A I can't remember right now if he asked me. He did
3 ask me -- he did ask why I used the taser.

4 Q Okay. Could you turn to your deposition for a
5 second.

6 A Yes. What page?

7 Q 72.

8 A Okay.

9 Q If you could go to line 24. I'm going to read page
10 72, lines 24 through page 73, lines 2, okay?

11 "Question: Okay. Did you have to justify the
12 tasing to Lieutenant Conroy?

13 "Answer: I don't remember exactly what we
14 discussed at that point. No."

15 Now you were asked those questions and gave those
16 answers at your deposition; right?

17 A Correct.

18 Q And you talked today about your testimony, on
19 direct about your testimony with what you talked about
20 with Lieutenant Conroy; correct?

21 A Correct.

22 Q All right. And you remember today in your direct
23 testimony; correct?

24 A I believe so, yes.

25 Q But you believe you had a memory flash, isn't that
STANLEY HENDRICKSON - CROSS

1 correct, of being bitten?

2 A An attempt, yes.

3 Q Okay. In fact, I think you testified, and I just
4 want to be clear, you don't ever remember Mr. Kingsley
5 biting you; right?

6 A Correct.

7 Q And in fact, he never has bitten you at all.

8 A No, he's not.

9 Q Did you bring up the biting incident with
10 Lieutenant Conroy because you knew without that that the
11 use -- without trying to justify something, the use of
12 the taser would not have been appropriate?

13 A No, I did not.

14 Q You mentioned how you had pushed Mr. Kingsley's or
15 secured Mr. Kingsley's head. I don't want to
16 mischaracterize your testimony, but you had put your
17 hand on Mr. Kingsley's head; right?

18 A Correct.

19 Q And you agree it's possible he could have hit the
20 bunk when that happened; right?

21 A It was after I had already done the downward
22 movement, my hand went over instantly to his head, yes.

23 Q Just so I'm clear, when you pushed Mr. Kingsley's
24 head down, you agree it's possible it could have hit the
25 bunk?

STANLEY HENDRICKSON - CROSS

1 MR. JONES: Objection. Mischaracterizes his
2 testimony.

3 THE COURT: Sustained.

4 BY MR. PARDON:

5 Q Okay. Did Mr. Kingsley's head hit the bunk at any
6 time during that process?

7 A Not that I know of.

8 Q Okay. Is it possible that it did?

9 MR. JONES: Objection. Argumentative.

10 THE COURT: Sustained.

11 BY MR. PARDON:

12 Q You have training in the proper use of force;
13 right?

14 A Correct.

15 Q That includes DAAT and POSC; correct?

16 A Correct.

17 Q And you know that force is not permitted to be used
18 as a punishment; right?

19 A That's correct.

20 Q All right. Pain is not supposed to be used as a
21 punishment?

22 A Correct.

23 Q Okay. I think you testified that you needed
24 inmates to follow orders; correct?

25 A This is correct.

STANLEY HENDRICKSON - CROSS

1 Q All right. Is one of the reasons that you ordered
2 the use of the taser to teach Mr. Kingsley a lesson?

3 A No, it is not.

4 Q Now you've been tased; right?

5 A Yes.

6 Q As part of your training? And it really hurts,
7 doesn't it?

8 A It's not pleasant.

9 Q Other than the incident with Mr. Kingsley, you're
10 not aware of any other situation where you applied a
11 contact on to somebody in handcuffs; isn't that correct?

12 A Correct.

13 Q In fact, other than the incident with Mr. Kingsley,
14 you've never personally been in a situation with anyone
15 else who's applied a contact on to somebody in
16 handcuffs; isn't that right?

17 A That's correct.

18 MR. PARDON: Thank you. I have no further
19 questions, Your Honor. (2:50 p.m.)

20 THE COURT: Mr. Jones, anything else.

21 MR. JONES: Just a few questions, yes.

22 REDIRECT EXAMINATION

23 BY MR. JONES:

24 Q Have you ever been in a situation before where a
25 subject resisted your efforts to take handcuffs off?

STANLEY HENDRICKSON - CROSS

1 A Not that I can recall, no.

2 Q You were asked about whether Mr. Kingsley complied
3 with Lieutenant Conroy's order for him to put his hands
4 behind his back while he was lying on the bunk in his
5 cell; yes?

6 A Yes.

7 Q Just to be clear, was Mr. Kingsley lying there with
8 his hands behind his back when you tried to put the
9 cuffs on him in the cell?

10 A No.

11 Q A detail like whether handcuffs are double locked
12 or not, is that something that you always put in your
13 report?

14 MR. PARDON: Objection. Leading.

15 THE COURT: Sustained.

16 BY MR. JONES:

17 Q Do you -- what is your practice with respect to
18 your reports in terms of the detail of whether handcuffs
19 are double locked or not?

20 A Don't usually put it in my reports, no.

21 Q Without picking a particular point in the series of
22 events in the receiving cell, asking you more generally,
23 as the events were unfolding in the receiving cell, did
24 you have concerns about anyone's safety?

25 A Yes.

STANLEY HENDRICKSON - CROSS

1 Q And what were your concerns?

2 A Injury to not just the staff, but to Mr. Kingsley.

3 Q You testified in response to Mr. Pardon's questions
4 or you agreed with him that you did not feel threatened;
5 correct?

6 A Correct.

7 Q Can you explain, if you didn't feel threatened, why
8 you still had concerns about safety?

9 A I had concerns for the potential for injury to
10 staff; if Mr. Kingsley gets a leg free, he could have
11 kicked somebody. Like I stated before, the different
12 types of injuries that could have happened, including
13 Mr. Kingsley being injured.

14 Q Did you have any concerns about whether the
15 situation could escalate?

16 A Yes.

17 Q Can you describe what your concerns were?

18 A Possible injury. Mr. Kingsley becoming more
19 combative.

20 Q Becoming more combative how?

21 A He could have, like I said before with the injury
22 part, kicking, moving around. He could have injured his
23 wrists pulling on the cuffs as hard as he was.

24 Q When Lieutenant Conroy gave the order to exit the
25 cell, did you agree or disagree with that order?

STANLEY HENDRICKSON - CROSS

1 A I agreed. We had taken it to the level where it
2 didn't appear like he was going to stop and become
3 cooperative with us at all.

4 Q And did you -- did you follow Lieutenant Conroy's
5 order?

6 A Yes, we did.

7 Q Mr. Kingsley -- not Mr. Kingsley, I'm sorry.
8 Mr. Pardon went back to your deposition testimony to ask
9 you about the conversation you had with Lieutenant
10 Conroy; correct?

11 A Correct.

12 Q And if you go back to page 73 of your transcript --

13 A I'm there.

14 Q -- you were asked the question: "Did you tell
15 Lieutenant Conroy that Kingsley tried to bite you
16 before?"

17 MR. PARDON: Your Honor, I object. I think
18 this is an improper use of the deposition.

19 THE COURT: Sustained.

20 MR. JONES: That's all I have. Thank you.

21 THE COURT: Anything further, Mr. Pardon?

22 MR. PARDON: No, Your Honor.

23 THE COURT: You may step down.

24 (Witness excused)

25 THE COURT: You may call your next witness.
STANLEY HENDRICKSON - CROSS

1 MR. JONES: Call Deputy Degner.

2 **FRITZ DEGNER, DEFENDANT, SWORN,**

3 DIRECT EXAMINATION

4 BY MR. JONES:

5 Q Deputy, could you state your full name for the
6 record.

7 A Fritz Alfred Degner.

8 Q And you're employed by the Sheriff's Department?

9 A Yes, I am.

10 Q Monroe County Sheriff's Department?

11 A Yes, I am.

12 Q How long have you worked at the Sheriff's
13 Department?

14 A Since July of 1992.

15 Q And do you have any other law enforcement
16 experience?

17 A Yes, I do. I was previously employed by the Sparta
18 Police Department.

19 Q For how long?

20 A Eleven years.

21 Q And you're a deputy sheriff; correct?

22 A That is correct.

23 Q And you've been a deputy the entire time you've
24 worked for the Sheriff's Department?

25 A Yes, I have.

FRITZ DEGNER - DIRECT

1 Q How old are you?

2 A 45.

3 Q And what's your educational background?

4 A I graduated from Sparta High School. I have
5 three-and-a-half years of college at UW La Crosse, and
6 then I have an associate degree in police science.

7 Q And are you state certified as a law enforcement
8 officer?

9 A Yes, I am.

10 Q When did you first get that certification?

11 A 1992.

12 Q And you've kept it ever since?

13 A Yes, I have.

14 Q What are your duties as a deputy sheriff?

15 A I'm assigned to the patrol division, so my main
16 duties conduct with traffic enforcement, traffic
17 accident investigation, criminal investigations,
18 handling complaints, and those types of things.

19 Q And as a deputy, are you regularly assigned to work
20 in the jail?

21 A No, I'm not.

22 Q Are you called on to assist in the jail from time
23 to time?

24 A On occasion.

25 Q And can you explain -- can you explain what those
FRITZ DEGNER - DIRECT

1 instances entail generally? Strike that. I'll ask a
2 better question.

3 What are you generally called on to do to assist?

4 A Usually when we get called to the jail to assist,
5 it's to help them with moving an inmate from one cell to
6 another.

7 Q And you were working on May 21st, 2010?

8 A Yes, I was.

9 Q And your shift was what?

10 A My shift commenced at 11 p.m. on the night of the
11 20th. I was working midnight shift patrol.

12 Q And at some point you were called to assist in the
13 jail; correct?

14 A Yes, I was.

15 Q And once you got that call, did you, in fact,
16 report to the jail?

17 A I did.

18 Q And what, if anything, did you learn about the
19 situation when you got there?

20 A I was told that they needed assistance in moving an
21 inmate from a cellblock cell to the receiving cell.

22 Q And as it turned out, that inmate was Mr. Kingsley;
23 correct?

24 A That's correct.

25 Q And at some point did you go to his cell to assist
FRITZ DEGNER - DIRECT

1 in moving him?

2 A Yes, I did.

3 Q And that was with a number of other officers;
4 correct?

5 A That's correct.

6 Q Where were you positioned outside the cell as -- as
7 officers were interacting with Mr. Kingsley inside his
8 cell?

9 A When we entered the cellblock, I came in through
10 the dayroom and then went down a catwalk towards where
11 the cells are. I was the third person in line behind
12 Deputy Blanton and then Sergeant Hendrickson was in
13 front of me or further in front of him. Sorry.

14 Q Can you -- I'd like to -- I'd like to show the jury
15 the video from the cellblock, Exhibit 520.

16 THE COURT: Any objection?

17 MS. WARD: No, Your Honor.

18 THE COURT: Go ahead.

19 (Video played)

20 BY MR. JONES:

21 Q So as we're looking at the video here, which
22 officer are you?

23 A I am the third one in line there, the farthest back
24 to where Sergeant Shisler and Lieutenant Conroy are
25 standing.

FRITZ DEGNER - DIRECT

1 Q Were you armed at the time?

2 A I was armed with a taser.

3 Q Anything else?

4 A Pepper spray.

5 Q We see here that there's a light on the floor;
6 correct?

7 A That is correct.

8 Q Can you tell us what that is?

9 A On the X26 taser, it has a laser beam that is
10 indicated of where the top probe of the -- if you were
11 using a probe shot with a taser, that indicates where
12 the top probe will hit. And then it has two LED lights
13 alongside of a tab for illumination.

14 Q It's basically a flashlight off the front of the
15 taser?

16 A That's correct.

17 Q Why -- am I correct that the light on the floor
18 indicates that you had turned the taser on?

19 A Yes.

20 Q Okay. And why did you do that at this point?

21 A I believe at that time was when the decision was
22 made that Sergeant Hendrickson and Deputy Blanton were
23 going to go inside the cell.

24 Q So why did you turn it on then?

25 A For protection.

FRITZ DEGNER - DIRECT

1 Q I'm going to move forward with the video and play
2 it just for a minute.

3 (Video played)

4 Where do you have the taser pointed here?

5 A It's pointed at the floor.

6 Q Tell us at any point as we play the video forward
7 whether you take aim of the taser off the floor. As we
8 watch, it appears to me that you're talking in this part
9 of the video?

10 MS. WARD: Objection. Is counsel testifying?

11 MR. JONES: Withdrawn.

12 MS. WARD: Thank you.

13 BY MR. JONES:

14 Q Did you speak to Mr. Kingsley as this was
15 occurring?

16 A Yes.

17 Q Were you speaking to him at this point?

18 A I could have been.

19 Q Okay. So the cell door is opening at this point?

20 A Yes.

21 Q At any point before the cell door opened, did you
22 point the taser at Mr. Kingsley?

23 A No, I didn't.

24 Q Where was it pointed during that time?

25 A The whole time it was pointed at the floor.

FRITZ DEGNER - DIRECT

1 Q At some point did you speak to him during that
2 course of events in the cellblock?

3 A Yes.

4 Q And what did you say?

5 A I had warned him that if -- he was being
6 argumentative at the time, and as part of what our
7 training is to try and de-escalate things, I had
8 asked -- you know, you go through the asking stage, and
9 then telling, and then it gets to the point where we're
10 to the making stage here. And so I was trying to get
11 him, to convince him that he needed to come and do what
12 they needed to do, otherwise other means were going to
13 have to be done.

14 Q Did you say anything to him about the taser?

15 A Yes, I did. What I had told him was if he -- if he
16 resisted us, he would be tased.

17 Q And do you know whether he heard you?

18 A Yes. He responded that if I tased him, he would
19 sue me.

20 Q At some point did you enter into the cell?

21 A I did.

22 Q By the way, why did you tell him if he engaged in
23 resistance he might be tased?

24 A To give him an opportunity to comply with what he
25 was being told to do.

FRITZ DEGNER - DIRECT

1 Q So at some point you went into the cell with the
2 other officers?

3 A Yes.

4 Q And at any point while you were in the cell, did
5 you point the taser at Mr. Kingsley?

6 A Yes, I did.

7 Q Where on him did you point the taser?

8 A On his upper back.

9 Q Why did you do that?

10 A It was the only appropriate target area on him at
11 that time.

12 Q You didn't actually use the taser in the cell.

13 A No, I did not.

14 Q Did you actually -- did you ever physically put it
15 on him while you were in the cell?

16 A As in touch him?

17 Q Yes.

18 A No, I did not.

19 Q Did you ever point it at his face or head while you
20 were in the cell with him?

21 A No, I did not.

22 Q Did you ever point a taser at his face or head
23 during this whole sequence of events?

24 A No.

25 Q At some point Mr. Kingsley was put in handcuffs?
FRITZ DEGNER - DIRECT

1 A Yes, he was.

2 Q And you were in the cell when that occurred?

3 A Yes, I was.

4 Q And did you observe what was happening as he was
5 being handcuffed?

6 A For as much as I could see.

7 Q Did you see anything happen to his feet or ankles
8 as he was being handcuffed?

9 A No, I didn't.

10 Q Did you see his feet or ankles get injured as he
11 was being handcuffed?

12 A No.

13 Q At some point, Mr. Kingsley was carried out into
14 the main hallway of the jail?

15 A Yes, he was.

16 Q In your own words, can you tell us what happened
17 out in the hallway?

18 A Are you talking in the main hall?

19 Q In the main hall, yes.

20 A Once he was carried out, as you can see in the back
21 of the video, behind Sergeant Shisler, that would be the
22 doorway out into the main hallway, he was brought out
23 through there and laid down on the floor. Once he was
24 laid on the floor, I believe Lieutenant Conroy, Sergeant
25 Hendrickson, maybe even Deputy Blanton had asked him

FRITZ DEGNER - DIRECT

1 repeatedly what was wrong with his feet. What hurt.

2 Which foot. With no response out of him.

3 Q And at some point he was then carried into the
4 receiving cell?

5 A That is correct.

6 Q And we've seen on the video where you positioned
7 yourself in the cell, the receiving cell itself?

8 A Yes.

9 Q Can you describe in words where that was?

10 A In the receiving cell -- when you came into the
11 receiving cell, again, as it was described before, the
12 bunk is immediately to the left of the door.

13 Mr. Kingsley was laying face down on that. Sergeant
14 Shisler was at his feet. When I had entered in, Deputy
15 Blanton was in the middle section where the handcuffs
16 and his hands would be and Sergeant Hendrickson was at
17 his head. I stood behind Sergeant Hendrickson and
18 Deputy Blanton, basically up against the wall.

19 Q Why did you position yourself there?

20 A In case I needed -- you know, they needed
21 assistance from me.

22 Q And did you observe what was going on as the
23 officers tried to take the handcuffs off?

24 A For as much as I could see past them.

25 Q And what, if anything, did you see as that was
FRITZ DEGNER - DIRECT

1 occurring, given your vantage point of course?

2 A I could see movement out of Mr. Kingsley. I could
3 see the officers moving. The more of what I was aware
4 of was the verbalization where they were telling him to
5 relax so they could take the handcuffs off and to quit
6 resisting.

7 Q Did you observe anything in terms of his upper body
8 or shoulders in terms of movement?

9 A When I -- specifically when I put the taser on him
10 where I had placed it on his shoulder is when I could
11 see that he was shrugging and moving around. I could
12 see that his arms were not -- weren't -- he wasn't
13 keeping them still. He had a lot of tension and his
14 muscles were tight.

15 Q Could you see anything in terms of what
16 Mr. Kingsley was doing with his hands -- with his arms
17 down where the handcuffs were?

18 A Yes. Yesterday when Mr. Landers demonstrated the
19 handcuffs, he had demonstrated them being in front.
20 When we move people or when we transport people,
21 normally the handcuffs are put in the back. It's more
22 of a safety issue than anything else because it's for
23 our safety. When someone is handcuffed in the front, it
24 gives them leverage to come behind us or assault one of
25 us. So his hands were behind his back. And what he

FRITZ DEGNER - DIRECT

1 had, his fists were clenched. Imagine my hands are
2 behind my back. He was pulling against them like this
3 and growling.

4 Q Tell us more what you -- strike that. What
5 specifically did you hear Mr. Kingsley -- what sounds
6 did you hear from him?

7 A There was grunting. Again, to me it sounded like a
8 growling like a bear. He wasn't verbalizing, other than
9 what he initially verbalized at the beginning when he
10 was first brought in and told to relax about taking the
11 handcuffs off.

12 Q And how did you perceive the sounds he was making?

13 A I perceived them as threatening.

14 Q Did Mr. Kingsley say he was in pain at any point?

15 A No, he did not.

16 Q Did he say the handcuffs were too tight at any
17 point from when they were put on until when he left the
18 receiving cell?

19 A Not once.

20 Q Did Mr. Kingsley say in the receiving cell that he
21 couldn't do what the officers were asking him to do?

22 A No, he didn't.

23 Q Did you -- we've heard from Officer Blanton and
24 Sergeant Hendrickson what they were doing in terms of
25 trying to get the handcuffs off or to stop Mr. Kingsley

FRITZ DEGNER - DIRECT

1 from doing what he was doing.

2 A Yes.

3 Q From your observation, did what they were saying or
4 doing, did that have any effect on what Mr. Kingsley was
5 doing?

6 A No, it did not.

7 Q Did it get him to stop?

8 A No.

9 Q Did you have any concerns about what was happening?

10 A Yes, I did.

11 Q Can you tell us what those concerns were?

12 A There were a number of concerns obviously as has
13 been stated multiple times: The safety issue as far as
14 with Mr. Kingsley fighting against us; the potential for
15 him getting hurt; us getting hurt should he decide to
16 escalate it. We're taught when dealing with people, as
17 Mr. Landers explained, to look at everything that's
18 going on with this. In 20 years, I've never had anybody
19 fight us on taking handcuffs off. Everybody wants them
20 off and they want them off as fast as they can because
21 they're uncomfortable to have on. That wasn't the
22 situation.

23 So when we're trying to take the handcuffs off and
24 he's pulling on the handcuffs where the handcuff chain
25 is so tight that you couldn't hardly manipulate the

FRITZ DEGNER - DIRECT

1 handcuff from what it appeared to me, that's one of the
2 things, you know, that I didn't know if he was trying to
3 break the handcuff, which could then lead to a sudden
4 assault by him. I couldn't see what was going on with
5 his head because of where Sergeant Hendrickson was
6 placed. So the discussion that was brought up as far as
7 any actions by him I couldn't tell you.

8 But again, we're in the concrete cell where the
9 edge of the cell shows where the black spot is, where
10 the toilet is. That actually has a sharp -- I would say
11 a fairly sharp corner on it.

12 We talk about not leaving people handcuffed. One
13 thing, as far as the law enforcement, we're taught not
14 to let somebody walk or move unescorted with their
15 handcuffs behind their back because of the fact they
16 can't catch themselves and I've experienced it where
17 I've been escorting people who've pulled away from me
18 and have fallen because of that.

19 Q You mentioned early on in your answer something
20 about escalation.

21 A Yes.

22 Q Can you explain what you meant?

23 A Any situation can escalate rapidly. I don't know
24 what his intent is. All I know is he's not complying
25 with what he's told to do. I don't know if he's trying

FRITZ DEGNER - DIRECT

1 to break the handcuffs. Somebody with broken handcuffs
2 has two weapons on their wrists.

3 We recently had an officer assaulted by somebody
4 with handcuffs that were --

5 MS. WARD: Objection, Your Honor. I'm going to
6 move to strike that last part.

7 THE COURT: Sustained. The jury will disregard
8 it.

9 THE WITNESS: Could you reask the question,
10 please?

11 MR. JONES: Sure.

12 BY MR. JONES:

13 Q What was your concern about escalation?

14 A This was a volatile situation. Anything could have
15 happened rapidly within it, whether he started to kick,
16 again, the handcuffs, whether he tried to bite. I don't
17 know. Any one of those could have gone on.

18 Q What about what had happened gave you a concern
19 that the situation might escalate?

20 A Normally, like I said, anybody who is in handcuffs
21 wants them off and they don't fight us to get them off.
22 So by the fact that this whole situation, we were
23 present. We've talked to him. We've tried to get him
24 to comply with what we were trying to do. We used as
25 many methods as we could up to that point and none of

FRITZ DEGNER - DIRECT

1 them were being effective, and so they could have
2 become -- things could have changed very rapidly.

3 Q So at some point Sergeant Hendrickson told you to
4 tase Mr. Kingsley; correct?

5 A That is correct.

6 Q Did he tell you to "tase his ass"?

7 A No.

8 Q Did you disagree with Sergeant Hendrickson's order
9 to you?

10 A No, I didn't.

11 Q What would you have done had you disagreed with
12 this order from your superior officer?

13 A I would have figured out some way to explain to him
14 that I didn't feel it was justified at that moment to do
15 things like that.

16 Q So what did you do once the Sergeant gave you the
17 order?

18 A From when he told me to tase him, there was maybe a
19 few second lapse in there before I actually pulled the
20 trigger on the taser.

21 Q But you did?

22 A Yes, I did.

23 Q And that was on the back of his right shoulder?

24 A Yes, it was.

25 Q And are you trained in the use of a taser?

FRITZ DEGNER - DIRECT

1 A Yes, I am.

2 Q And how did you obtain that training?

3 A Interdepartmental training. We have two taser
4 instructors on our staff.

5 Q And you use a contact stun; correct?

6 A Yes, I did.

7 Q How long was the taser applied in this instance?

8 A For one cycle of five seconds.

9 Q And how many times did you tase him?

10 A Just one time.

11 Q After you tased Mr. Kingsley, did he stop doing
12 what he was doing?

13 A No, he didn't.

14 Q And at some point Lieutenant Conroy directed
15 everyone to leave the cell; correct?

16 A That is correct.

17 Q Did you agree or disagree with that order?

18 A I agreed.

19 Q And what did you do?

20 A Well, first -- I told Sergeant Hendrickson to go
21 first because it was easy for him to come out and go
22 past, and I remained there with the taser on
23 Mr. Kingsley's back until Deputy Blanton left, and then
24 Sergeant Shisler left. Because keeping control of the
25 legs is the most important thing at that time as

FRITZ DEGNER - DIRECT

1 everybody was disengaging. Once everybody was out of
2 the cell, I disengaged from Mr. Kingsley and removed the
3 taser from his back and went out of the cell.

4 Q Do you use the taser against Mr. Kingsley because
5 of whatever -- because of whatever he had done to
6 require that he be moved to the receiving cell?

7 A No, I did not.

8 Q Did you use the taser to punish Mr. Kingsley?

9 A No.

10 Q Did you use the taser because you were somehow
11 angry at him?

12 MS. WARD: Objection. Leading.

13 THE COURT: Overruled.

14 THE WITNESS: No.

15 BY MR. JONES:

16 Q Did you use the taser to somehow show him who was
17 boss in this situation?

18 MS. WARD: Objection. Leading.

19 THE COURT: Overruled.

20 THE WITNESS: No, I did not.

21 BY MR. JONES:

22 Q Did you use the taser in any way, shape or form for
23 the purpose of causing harm to him?

24 A No, I did not.

25 MR. JONES: Thank you, Deputy.
FRITZ DEGNER - DIRECT

1 THE COURT: Ms. Ward.

2 MS. WARD: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. WARD:

5 Q When you got to the jail on the morning of May 21,
6 2010, you, Sergeant Hendrickson, Deputy Blanton,
7 Sergeant Shisler and Lieutenant Conroy had a discussion
8 about what each one of you would -- what role you would
9 take in addressing Mr. Kingsley; is that correct?

10 A That's correct.

11 Q And in that discussion, it was decided that you
12 were going to cover with the taser in case he became
13 violent; correct?

14 A If need be.

15 Q Is the answer yes?

16 A Yes.

17 Q And your recollection is that when the officers
18 approached Mr. Kingsley in his cell, he was
19 argumentative; right?

20 A Yes.

21 Q But you don't recall Mr. Kingsley making any
22 threats to use physical violence against any of the
23 officers; correct?

24 A No, I did not.

25 Q In fact, Mr. Kingsley told the officers at the time
FRITZ DEGNER - CROSS

1 that he was not being violent; correct?

2 A That's correct.

3 Q Now after Mr. Kingsley was handcuffed, he was
4 physically picked up off of the bunk and carried out
5 into the hallway; correct?

6 A Yes.

7 Q And he was laid in the hallway briefly and then he
8 was carried by four officers to the receiving cell;
9 correct?

10 A That's correct.

11 Q And when he was being carried, he didn't make any
12 threats to use physical violence; correct?

13 A No, he did not.

14 Q In fact, he wasn't even exhibiting active
15 resistance when he was being carried; correct?

16 A That's correct.

17 Q He allowed the officers to carry him.

18 A Yes.

19 Q And he was complaining about his foot at the time;
20 correct?

21 A I don't know if he complained while he was being
22 carried. When he was laying on the floor.

23 Q Do you recall having your deposition taken?

24 A Yes, I do.

25 Q Could you turn to page 24 of your deposition in the
FRITZ DEGNER - CROSS

1 binder.

2 Are you on page 24, sir?

3 A Yes, I am.

4 Q Okay. I'm going to start reading to you from line
5 13.

6 "Question: Did Mr. Kingsley make any threats to
7 harm anyone while he was being carried from outside his
8 cell to the receiving cell?"

9 Line 18. Your answer.

10 "Answer: Not that I recall, as far as -- I don't
11 remember. The only thing I remember him saying was he
12 was complaining about his foot."

13 Did I -- I'm sorry. Were you asked that question
14 and did you give that answer?

15 A Yes, I did.

16 Q Okay. So now let's talk about what happened when
17 you got to the receiving cell. The officers placed
18 Mr. Kingsley face down on the concrete slab; correct?

19 A That is correct.

20 Q And while you were in the receiving cell, Sergeant
21 Hendrickson, Deputy Blanton, and you were all telling
22 Mr. Kingsley to relax, quit pulling on the handcuffs,
23 and quit resisting; correct?

24 A At certain points, yes.

25 Q And at that time you didn't hear Mr. Kingsley make
FRITZ DEGNER - CROSS

1 any threats of physical violence; correct?

2 A That's correct.

3 Q And you did not see Mr. Kingsley attempt to bite
4 anyone in the receiving cell; correct?

5 A No, I did not.

6 Q And the officers couldn't get the handcuffs off;
7 correct?

8 A That's correct.

9 Q And that's when Sergeant Hendrickson told you to
10 tase him? I'm sorry. That wasn't specific. I'll
11 withdraw it.

12 At some point Sergeant Hendrickson told you to tase
13 him when you were in the receiving cell; right?

14 A That is correct.

15 Q And you don't recall anyone telling Mr. Kingsley in
16 the receiving cell that he would be tased if he didn't
17 comply with orders; correct?

18 A That's correct. He was not warned in the receiving
19 cell.

20 Q And after Mr. Kingsley was tased, the officers
21 cleared the cell. You testified to that on direct;
22 correct?

23 A That's correct.

24 Q And he was still in the handcuffs when you left
25 him?

FRITZ DEGNER - CROSS

1 A Yes, he was.

2 Q And I think you testified on direct that you agreed
3 with Sergeant Hendrickson's decision to tase
4 Mr. Kingsley; is that right?

5 A Yes, I did.

6 Q But ultimately it was up to you whether to tase
7 Mr. Kingsley; correct?

8 A That is correct.

9 Q Now the reason you tased him is that he was
10 preventing you from getting the handcuffs off, and if
11 you left him in handcuffs, he could get hurt; correct?

12 MR. JONES: Objection. Mischaracterizes the
13 testimony.

14 THE COURT: I'm sorry, I couldn't hear you.

15 MR. JONES: I'm sorry. Mischaracterizes his
16 testimony. Objection.

17 THE COURT: Overruled.

18 BY MS. WARD:

19 Q Do you want me to ask it again?

20 A Please.

21 Q The reason you tased him is that he was preventing
22 you from getting the handcuffs off, and if you left him
23 in handcuffs, he could get hurt; correct?

24 A No.

25 Q Do you want to turn in your deposition to page 35,
FRITZ DEGNER - CROSS

1 please, sir. At line 15, the question was asked:

2 "Question: Did you agree with the instruction to
3 deploy the taser?

4 "Answer: Yes.

5 "Question: Why?

6 "Answer: He was actively resisting. He was
7 preventing us from taking the handcuffs off him. It's a
8 safety issue. We need to get the handcuffs off of him
9 because if we leave him, he could get hurt."

10 You were asked that question and you gave that
11 answer; correct?

12 A That's correct.

13 Q And you believe it was a safety issue for
14 Mr. Kingsley; correct?

15 A But as I testified here also, that he was actively
16 resisting at that time.

17 Q It was a safety issue for Mr. Kingsley; correct?

18 A It was a safety issue.

19 Q So let me understand. You tased Mr. Kingsley so he
20 would be safe while alone in the cell and then you left
21 him alone in the cell with his handcuffs on; correct?

22 MR. JONES: Objection. Argumentative.

23 THE COURT: Overruled.

24 THE WITNESS: Please ask again.

25

FRITZ DEGNER - CROSS

1 BY MS. WARD:

2 Q Ask again. You tased Mr. Kingsley so he could be
3 safe -- so he would be safe while alone in the cell and
4 then you left him alone in the cell with his handcuffs
5 on anyway; correct?

6 A Ultimately that decision was made, yes.

7 Q Okay. Thank you.

8 Now I want to ask you a few questions about
9 Mr. Kingsley's reputation. You don't know whether
10 Mr. Kingsley had any particular reputation among the
11 staff in the jail; correct?

12 A That is correct.

13 Q And you aren't aware of any prior disciplinary
14 measures taken against Mr. Kingsley for any reason while
15 he was in the jail; correct?

16 MR. JONES: I'm going to object to that
17 question, Your Honor, based on Your Honor's rulings on
18 motions.

19 MS. WARD: Can I be heard, Your Honor, at side
20 bar?

21 THE COURT: We'll take a recess at this time
22 for 15 minutes. Please remember not to talk about the
23 case. Leave your notepads on your chairs.

24 (Jury excused from courtroom at 3:15 p.m.)

25 THE COURT: Deputy, you may step down.
FRITZ DEGNER - CROSS

1 (Witness excused)

2 THE COURT: Mr. Jones.

3 MR. JONES: I understand Your Honor's pre-trial
4 rulings to be that we were not going to go into any
5 prior disciplinary incidents regarding Mr. Kingsley, yet
6 they're asking him about prior -- they're asking this
7 witness about prior disciplinary incidents about
8 Mr. Kingsley when I had purposefully avoided talking
9 about anything about prior discipline with other
10 witnesses, including Sergeant Hendrickson.

11 MS. WARD: Your Honor, actually I was asking
12 him if he was aware of any prior disciplinary measures,
13 and this goes to his state of mind, just like many of
14 Mr. Jones' questions went to the officer's state of mind
15 at the time of the incident. This also goes to what
16 Deputy Degner knew about Mr. Kingsley.

17 THE COURT: Well, but if you open it up with
18 this witness, there are other witnesses that may know a
19 lot about him. I don't -- this was not what I
20 contemplated when I issued the order. It was -- we're
21 to look at this as if it were the only experience that
22 these people had ever had with this prisoner.

23 MS. WARD: Okay. I understand, Your Honor.

24 THE COURT: Okay. Then we will resume at 3:40.

25 (Recess 3:27-3:42 p.m.)
FRITZ DEGNER - CROSS

1 THE COURT: You can bring in the jury.

2 (Jury brought in courtroom at 3:42 p.m.)

3 THE COURT: Where were we? Ms. Ward.

4 MS. WARD: Thank you.

5 BY MS. WARD:

6 Q You reviewed the videos in preparation for your
7 testimony here in court today; right?

8 A Yes, I did.

9 Q Now I'm going to ask you about times that you've
10 used the taser other than the incident with
11 Mr. Kingsley.

12 A Okay.

13 Q Other than the incident with Mr. Kingsley, you've
14 used the taser about ten times; correct?

15 A That would probably be correct.

16 Q And of those ten times, on only two occasions was
17 the subject already handcuffed; correct?

18 A That's correct.

19 Q Let's just talk about those two occasions. One of
20 those times the subject was riding in your squad car
21 after an arrest and she had kicked out the window of
22 your car and slipped out of one of the handcuffs at the
23 time she was tased; correct?

24 A That's correct.

25 Q And there the loose handcuff became a weapon the
FRITZ DEGNER - CROSS

1 subject could use against you or other officers;

2 correct?

3 A Correct.

4 Q The other time the subject was also handcuffed and

5 trying to kick out the window of your squad car;

6 correct?

7 A That is correct.

8 Q And that time you already had to fight with that

9 subject in the process of taking him into custody;

10 correct?

11 A That's correct.

12 Q Now going back to the incident with Mr. Kingsley.

13 After Mr. Kingsley was tased and the group of officers

14 left him in the receiving cell, you wrote an incident

15 report; correct?

16 A That is correct.

17 Q And you also prepared a supervisory taser use

18 report; correct?

19 A That's correct.

20 Q Okay. I want you to turn in the binders that are

21 by you up there, I believe binder one, volume one, to

22 Exhibit -- Plaintiff's Exhibit 37.

23 A Which number?

24 Q 37. Are you there?

25 A Yes.

FRITZ DEGNER - CROSS

1 Q And do you recognize this as a copy of the taser
2 supervisor report -- Supervisory Taser Use Report that
3 you prepared?

4 A Yes, it is.

5 MS. WARD: Your Honor, I move for the admission
6 of Plaintiff's Exhibit 37.

7 MR. JONES: No objection.

8 THE COURT: Received.

9 BY MS. WARD:

10 Q In the two reports you prepared in connection with
11 this case, you did your best to completely and
12 accurately describe the incident with Mr. Kingsley on
13 May 21, 2010; correct?

14 A Yes.

15 Q And at the beginning of your testimony, your
16 cross-examination, you said that when you and the other
17 officers talked about what roles each of you would have,
18 you were going to cover with the taser in case
19 Mr. Kingsley became violent; correct?

20 A That's correct.

21 Q Deputy Degner, nothing in either of your reports
22 states that Mr. Kingsley became violent; correct?

23 A That is correct.

24 Q In fact, the Taser Use Report has a box to check
25 for type of incident; doesn't it?

FRITZ DEGNER - CROSS

1 A Yes.

2 Q Okay. Let's turn to page two of your Supervisor
3 Taser Use Report. I apologize for the long name of that
4 document.

5 MS. WARD: And if you could please publish that
6 to the jury. One moment. I apologize. All right.
7 There we go.

8 Q This is the section of the Supervisor Taser Use
9 Report where you check what type of incident type was
10 involved; correct?

11 A That's correct.

12 Q And here you checked *Other*; correct?

13 A Yes.

14 Q And you added *noncompliant inmate*; correct?

15 A That is correct.

16 Q So you tased Mr. Kingsley because he was
17 noncompliant; correct?

18 A No.

19 Q That's what you checked on the box.

20 A Correct.

21 MS. WARD: No further questions. (3:47 p.m.)

22 THE COURT: Mr. Jones.

23 REDIRECT EXAMINATION

24 BY MR. JONES:

25 Q From your experience, does an inmate have to be
FRITZ DEGNER - REDIRECT

1 violent to be resistive?

2 A No, they don't.

3 Q In your experience, can an inmate be actively
4 resisting without at the same time being violent?

5 A Yes.

6 Q In your -- in the Taser Use Report that counsel had
7 you looking at, I'd have you look at page three of the
8 report. This is a page with a diagram and then three
9 paragraphs of text; is that correct?

10 A That's correct.

11 Q I'm going to refer you down to the last two
12 sentences of the second paragraph. Beginning *Deputy*
13 *Blanton attempted* -- do you see where I am?

14 A Yes.

15 Q Can you read those two sentences?

16 A "Deputy Blanton attempted to remove the handcuffs
17 from Kingsley but Kingsley began to growl and pull
18 against the handcuffs making it so they cannot be
19 removed. He was repeatedly told to relax so the
20 handcuffs could be removed, but Kingsley remained
21 resistive."

22 Q Officer, in your experience, twenty years as a law
23 enforcement officer, have you ever had a prisoner resist
24 your efforts to take handcuffs off?

25 A No, they have not.

FRITZ DEGNER - REDIRECT

1 Q How do prisoners normally react to having their
2 handcuffs taken off?

3 A Usually they're pretty happy about it. Like I
4 said, it's not comfortable to have them on. When
5 they're behind your back, it puts pressure on the body.

6 Q When you were in the receiving cell, could you see
7 Mr. Kingsley's head the whole time?

8 A No, I couldn't.

9 Q Why not?

10 A He was blocked by Sergeant Hendrickson.

11 Q And am I correct that you warned Mr. Kingsley about
12 the possible use of the taser when you were standing
13 outside his cell in the south block?

14 MR. WARD: Objection. Leading.

15 THE COURT: Sustained.

16 BY MR. JONES:

17 Q Did you ever warn Mr. Kingsley about the use of the
18 taser?

19 A Yes, I did.

20 Q Where were you when you did that?

21 A Outside of his cell.

22 MR. JONES: Thank you. That's all.

23 RE CROSS-EXAMINATION

24 BY MS. WARD:

25 Q Just to be clear, you didn't warn him in the
FRITZ DEGNER - RE CROSS

1 receiving cell when he was tased; correct?

2 A That is correct.

3 MS. WARD: Nothing further, Your Honor.

4 (Witness excused at 3:50 p.m.)

5 THE COURT: You may step down. Mr. Jones, you
6 may call your next witness.

7 MR. JONES: Your Honor, the next witness is the
8 witness we discussed for tomorrow.

9 THE COURT: Oh, this is -- that's your only
10 witness is the expert for tomorrow? And he will be here
11 at nine o'clock.

12 MR. JONES: Yes.

13 THE COURT: All right. Then Members of the
14 Jury, we'll adjourn for the night. Please remember not
15 to talk about the case. Leave your notepads on your
16 chairs if you've been taking notes. And you can assume
17 that probably by the middle of the day tomorrow we'll be
18 hearing the closing arguments in the case and that you
19 will be beginning your deliberations.

20 The defendants' expert is the last witness that's
21 going to be called. I suppose plaintiff could still
22 call a rebuttal witness, but I will leave that
23 possibility open. But anyway, we should be through by
24 tomorrow, by noon tomorrow. All right.

25 (Jury excused from courtroom at 3:51 p.m.)

FRITZ DEGNER - RECROSS

1 THE COURT: Counsel, anything you wish to take
2 up now outside the presence of the jury?

3 MR. JONES: Not from the defendants.

4 THE COURT: Okay.

5 MR. PARDON: No. I mean we have to resolve the
6 issues of exhibits.

7 THE COURT: Then we're adjourned.

8 (Proceedings concluded at 3:51 p.m.)

9

10 * * * * *

11 I, LYNETTE SWENSON, Certified Realtime and Merit
12 Reporter in and for the State of Wisconsin, certify that
13 the foregoing is a true and accurate record of the
14 proceedings held on the 16th day of October 2012 before
15 the Honorable Barbara B. Crabb, District Judge for the
16 Western District of Wisconsin, in my presence and
17 reduced to writing in accordance with my stenographic
18 notes made at said time and place.
19 Dated this 1st day of November 2012.

20

21

22 /s/_____

23 Lynette Swenson, RMR, CRR, CBC
24 Federal Court Reporter

25

26

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